

Item SP06-03 Response Form

Title: **Title 1. Rules Applicable to All Courts** (adopt new rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.20, 1.21, 1.22, 1.31, 1.32, 1.33, 1.34, 1.35, 1.36, and 1.37 of the California Rules of Court; amend and renumber rules 200.1, 200.3, 987, 201.1, 201.2, and 989.3 as rules 1.6, 1.10, 1.11, 1.30, and 1.38, and 1.40, respectively; and repeal Introductory Statement)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please write or fax or respond using the Internet to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Friday, March 3, 2006

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee
All comments will become part of the public record of the council's action.*

Invitation to Comment (SP06-03)

Title	Title 1. Rules Applicable to All Courts (adopt new rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.20, 1.21, 1.22, 1.31, 1.32, 1.33, 1.34, 1.35, 1.36, and 1.37 of the California Rules of Court; amend and renumber rules 200.1, 200.3, 987, 201.1, 201.2, and 989.3 as rules 1.6, 1.10, 1.11, 1.30, and 1.38, and 1.40, respectively; and repeal Introductory Statement).
Summary	Title 1 is a new section containing rules of the California Rules of Court applicable to all courts. It would contain definitions, rules of construction, and rules of general application to all the subsequent rules for the trial courts, the appellate courts, and judicial administration.
Source	Office of the General Counsel, Administrative Office of the Courts Working Group on Rules Reorganization, Civil and Small Claims Advisory Committee
Staff	Patrick O'Donnell, Senior Attorney, 415-865-7665, patrick.o'donnell@jud.ca.gov Douglas C. Miller, Attorney, 415-865-7535, douglas.miller@jud.ca.gov
Discussion	<p>Title 1, which is new, contains Rules Applicable to All Courts.¹ These rules apply to all the rules and standards that follow. They are in the new format for Judicial Council rules.</p> <p>The Introductory Statement that currently precedes title 1 would be repealed, but significant portions of its contents would be incorporated into new title 1. This title would include provisions stating the authority for the California Rules of Court and the Standards of Judicial Administration; and provisions clarifying the meaning and intent of rules, standards, and orders.</p> <p>New title 1 begins with preliminary rules. These state the title of the rules, the authority for the rules, and the contents of the rules, including the appendixes. (See Cal. Rules of court, rules 1.1–1.4.)</p> <p>Next, title 1 contains general rules of construction. Rule 1.5 explains that “must” is mandatory, “may” is permissive, and “should” expresses</p>

¹ Current title 1 that contains the Appellate Rules would be relocated to title 8, after the trial court rules.

a preference or a non-binding recommendation. Based on the adoption of rule 1.5 in title 1, numerous subsequent restatements of these propositions in the rules would be eliminated.

The definitions of many terms that appear throughout the California Rules of Court have been incorporated into rule 1.6 (based on former rule 200.1). This rule includes definitions of words such as “general civil case,” “local rule,” and “recycled” paper. The rule also explains the usage of certain terms to avoid the necessity of repeating particular statements or words many times in the rules. Thus, the term “presiding judge” would include “the acting presiding judge or the judicial officer designated by the presiding judge”; “sheriff” would include “marshal”; and “declaration” would include “affidavit.”

Adopting rules of construction, definitions, and usage of terms generally in title 1 would eliminate the problem that exists under the current rules that these rules must be stated separately in each title or even as part of many individual rules that follow. Comments are invited on the general rules of construction, definitions, and usage of terms.

The public is specifically invited to comment on rule 1.5(a), which contains a new general rule of construction stating “the rules and standards of the California Rules of Court must be liberally construed to ensure the just and speedy determination of the proceedings that they govern.” This proposed rule is based on current rule 53(b), the rule of construction in the appellate rules. However, commentators might consider whether an alternative general rule of construction should be adopted based on provisions in rule 204 of the California Rules of Court, or sections 4 and 128 of the California Code of Civil Procedure, or Rule 1 of the Federal Rules of Civil Procedure. Some of these add other considerations such as administration as well as construction, and efficiency as well as justice and speed. Comments are also specifically invited on new rule 1.5(d), which is based on current rules 40(b) and 200.2, and whether subdivision (d)(1) should be eliminated as more confusing than useful.

Comments are specifically invited on the particular definitions and uses of terms provided in rule 1.6, which will apply throughout the California Rules of Court. Rule 1.6 is based primarily on current rule 201.1, but contains definitions from elsewhere in the rules and several new terms.

Title 1 also contains other rules that apply to all trial and appellate

courts. These include rules on the computation of time and court holidays. (See rules 1.10 and 1.11 (based on current rules 200.3 and 987).) The title includes several rules on service and filing that are applicable to all cases. (See rules 1.20, 1.21, and 1.22 (based on current rules 40, 40.1 and 200.1).) And it contains a rule on the use of recycled paper. (See rule 1.22 (based on rules 40(k) and 201(b)).)

The main rules on Judicial Council forms would be relocated to title 1. (See chapter 4, rules 1.30–1.45.) As a result of the recent adoption of Judicial Council forms for use in the appellate courts, these rules are now applicable to official forms used in the appellate as well as the trial courts. So the location of the rules in title 1 is appropriate. The rule on mandatory forms has been modified to reflect the adoption of alternative mandatory forms for some matters.

Finally, because they apply to all courts, the rule on accommodations for persons with disabilities would be located in title 1. (See rule 1.100.)

Comments are invited on title 1, its contents, and suggestions for additional matters that should be included in the title.

Attachments

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INTRODUCTORY STATEMENT

The Judicial Council is established under article VI, section 6, of the Constitution of California, and is given various powers and responsibilities to improve the administration of justice.

Judicial Council rules, standards, and orders

Unless otherwise indicated, each rule in these California Rules of Court was adopted by the Judicial Council under its constitutional authority to “adopt rules for court administration, practice and procedure not inconsistent with statute,” or under express authority granted by the Legislature.

Throughout the rules, “shall” and “must” are mandatory, “may” is permissive, and “should” indicates a nonbinding recommendation. “Will” indicates a future contingency or predicts action by a court or judicial officer in the ordinary course of events, but does not signify a mandatory duty. Whenever “must” is used in a new rule or an amendment to a rule with an effective date on or after January 1, 2001, it is synonymous with “shall” as used in the rules before that date.

All of the California Rules of Court have the force of law.

Under its authority granted by article VI, section 6, of the Constitution to “make recommendations to the courts,” the Judicial Council has adopted “Standards of Judicial Administration Recommended by the Judicial Council” (“standards”). They are published in Division I of the Appendix to the California Rules of Court. The nonmandatory nature of the standards is indicated by the use of “should” instead of the mandatory “shall” or “must.”

Standards make recommendations on practice and procedure, express goals that courts and judges are urged to try to attain, and state guidelines for discretionary action. Even though courts are not obligated to comply with these recommendations, goals, and guidelines, courts should consider them as highly desirable standards of good practice.

A standard might also be found by a court to state the proper boundaries of judicial discretion.

The Judicial Council sometimes disposes of matters within its jurisdiction by orders that are not incorporated into the rules; for example, it might name the counties to participate in a pilot project by order.

The Chief Justice, as Chair of the Judicial Council, is given certain express powers by article VI, section 6, and by statute. For example, article VI, section 6, authorizes the Chief Justice to prescribe the reports courts make to the Judicial Council. This is done by regulations, which have the force of law.

This Introductory Statement is intended to clarify the usual meaning and intent of rules, standards, and orders, and to distinguish among them. It is not intended to be exhaustive or exclusive, and the distinctions expressed here do not bind the Judicial Council in the future.

1
2 **Judicial Council forms**

3
4 The Judicial Council adopts and approves legal forms used in the courts.
5 Under Government Code section 68511, the council may prescribe certain forms.
6 The council “adopts” those forms, and use of those forms is mandatory (rule
7 201.1(b)(1)).

8 The council may also “approve” forms. Use of an approved form is not
9 mandatory, but the form must be accepted by all courts in appropriate cases (rule
10 201.1(e)(1)).

11 Forms thus are adopted for mandatory use and approved for optional use. The
12 lower left corner of the first page of each form indicates whether the form is
13 mandatory or optional.

14 A form adopted or approved by the council is not subject to the requirements of
15 rule 201, which specifies the format of papers filed in the trial courts.

16 A party may file a “duplicate” of a council form produced entirely by computer
17 (rule 201.1(h), (i)).

18
19 **Title 1. Rules Applicable to All Courts**

20
21 **Chapter 1. Preliminary Rules**

22
23 **Rule 1.1. The California Rules of Court**

24
25 These rules are entitled the California Rules of Court.

26
27 **Rule 1.2. Title**

28
29 The rules in this title of the California Rules of Court may be referred to as the
30 Rules Applicable to All Courts.

31
32 **Rule 1.3. Authority**

33
34 The rules in the California Rules of Court are adopted by the Judicial Council of
35 California under the authority of article VI, section 6 of the Constitution of the
36 State of California, unless otherwise indicated. The rules in division 4 of title 8
37 and in title 9, and the Code of Judicial Ethics, were adopted by the Supreme Court.

38
39 **Rule 1.4 Contents of the rules**

40
41 **(a) The titles**

42
43 The California Rules of Court includes the following titles:

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- (1) Title 1. Rules Applicable to All Courts;
- (2) Title 2. Trial Court Rules;
- (3) Title 3. Civil Rules;
- (4) Title 4. Criminal Rules;
- (5) Title 5. Family and Juvenile Law Rules;
- (6) Title 6. [Reserved];
- (7) Title 7. Probate Rules;
- (8) Title 8. Appellate Rules;
- (9) Title 9. Rules Relating to Law Practice, Attorneys, and Judges; and
- (10) Title 10. Judicial Administration Rules.

(b) Standards of Judicial Administration

The California Rules of Court includes the Standards of Judicial Administration adopted by the Judicial Council.

(c) Code of Judicial Ethics

The California Rules of Court includes the Code of Judicial Ethics adopted by the Supreme Court.

(d) Ethics Standards for Neutral Arbitrators in Contractual Arbitrations

The California Rules of Court includes Ethics Standards for Neutral Arbitrators in Contractual Arbitrations adopted by the Judicial Council under the authority of Code of Civil Procedure section 1281.85.

(e) The appendixes

The California Rules of Court includes the following appendixes:

- (1) Appendix A. Judicial Council Legal Forms List;

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- (2) Appendix B. Liability Limits of a Parent or Guardian Having Custody in Control of a Minor for the Torts of a Minor; and
- (3) Appendix C. Guidelines for the Operation of Family Law Information Centers and Family Law Facilitator Offices.

(Reviser’s note: The appendixes described in (e) have been revised from the current version of the appendix to the California Rules of Court. All four appendixes in the reorganized rules would relate to the Judicial Council. The Code of Judicial Ethics, which has been adopted by the Supreme Court, would be moved from the appendixes to a part of the California Rules of Court as indicated in (c). Also, the Ethics Standards for Neutral Arbitrators in Contractual Arbitrations would be made a part of the California Rules of Court as indicated in (d). The Guidelines for the Commission on Judicial Performance, which is currently in the appendix, would be omitted. Publishers may include the Guidelines with the other similar documents that are voluntarily published together with the California Rules of Court, such as the Local Rules of the Courts of Appeal, the State Bar Rules of Professional Conduct, and the Rules and Procedures of the Commission on Judicial Nominees Evaluation.)¹

Rule 1.5. Construction of rules and standards

(a) Construction

The rules and standards of the California Rules of Court must be liberally construed to ensure the just and speedy determination of the proceedings that they govern.

(b) Terminology

As used in the rules and standards:

- (1) “Must” is mandatory;
- (2) “May” is permissive;
- (3) “May not” means is not permitted to;

¹ Reviser’s notes are used throughout the reorganized rules to assist the public by indicating the sources of rules, explaining changes, or providing other information. The notes will not be a permanent part of the rules.

1 (4) “Will” expresses a future contingency or predicts action by a court or
2 person in the ordinary course of events, but does not signify a
3 mandatory duty; and

4
5 (5) “Should” expresses a preference or a nonbinding recommendation.

6
7 (c) **Standards**

8
9 Standards are guidelines or goals recommended by the Judicial Council. The
10 nonbinding nature of standards is indicated by the use of “should” in the
11 standards instead of the mandatory “must” used in the rules.

12
13 (d) **Construction of additional terms**

14
15 In the rules:

16
17 (1) Each tense (past, present, or future) includes the others;

18
19 (2) Each gender (masculine, feminine, or neuter) includes the others; and

20
21 (3) Each number (singular or plural) includes the other.

22
23 **(Reviser’s note: The provisions in rule 1.5 are drawn from various sources,**
24 **including the Introductory Statement and current rules 40(d), 53, 200.2, 5.11,**
25 **and 7.2.)**

26
27 **Rule 1.6.200.1. Definitions and use of terms**

28
29 As used in ~~this title~~ the California Rules of Court, unless the context or subject
30 matter otherwise requires:

31
32 (1) “Action” includes special proceeding.

33
34 ~~(1)~~(2) “Case” includes action or proceeding.

35
36 (3) “Civil case” means a case prosecuted by one party against another for
37 the declaration, enforcement, or protection of a right or the redress or
38 prevention of a wrong. Civil cases include all cases except criminal
39 cases.

40
41 ~~(2)~~(4) “General civil case” means all civil cases except probate,
42 guardianship, conservatorship, juvenile, and family law proceedings
43 (including proceedings under divisions 6–9 of the Family Law Act

1 Code, Uniform Parentage Act, and ~~Uniform Child Custody~~
2 ~~Jurisdiction Act~~; Domestic Violence Prevention Act, and Uniform
3 Interstate Family Support Act; freedom from parental custody and
4 control proceedings; and adoption proceedings), ~~juvenile court~~
5 ~~proceedings~~, small claims proceedings, unlawful detainer proceedings,
6 and “other civil petitions” as ~~defined by the Judicial Branch Statistical~~
7 ~~Information Data Collection Standards~~ described in (5).
8

9 (5) “Civil petitions” that are not general civil cases include petitions to
10 prevent civil harassment, elder abuse, and workplace violence; petitions
11 for name change; election contest petitions; and petitions for relief from
12 late claims.
13

14 ~~(3)(6)~~ The definitions of “Unlimited civil cases” and “limited civil cases”
15 are, ~~for the purposes of these rules, the definitions contained~~ defined in
16 Code of Civil Procedure section 85 et seq.
17

18 (7) “Criminal case” means a proceeding by which a party charged with a
19 public offense is accused and brought to trial and punishment.
20

21 (8) “Rule” means a rule of the California Rules of Court.
22

23 ~~(4)~~ “Court” means the trial court.
24

25 ~~(5)(9)~~ “Local rule” means every rule, regulation, order, policy, form, or
26 standard of general application adopted by a court to govern practice
27 and procedure in that court or by a judge of the court to govern
28 practice or procedure in that judge’s courtroom.
29

30 (10) “Chief Justice” and “presiding justice” include the Acting Chief Justice
31 and the acting presiding justice, respectively.
32

33 (11) “Presiding judge” includes the acting presiding judge or the judicial
34 officer designated by the presiding judge.
35

36 ~~(6)(12)~~ “Judge” includes, as applicable, a judge of the superior court, a
37 commissioner, or a temporary judge.
38

39 ~~(7)~~ “Presiding judge” includes the acting presiding judge.
40

41 (13) “Temporary judge” means an active or inactive member of the State
42 Bar of California who, under article VI, section 21 of the California
43 Constitution and these rules, serves or expects to serve as a judge once,

1 sporadically, or regularly on a part-time basis under a separate court
2 appointment for each period of service or each case heard.

3
4 (14) “Person” includes a corporation or other legal entity as well as a natural
5 person.

6
7 ~~(8)~~(15) “Party” is a person appearing in an action. A party may be self-
8 represented or represented by an attorney of record. “Party,”
9 “applicant,” “petitioner,” or any other designation of a party includes
10 such the party’s attorney of record.

11
12 (16) “Attorney” means a member of the State Bar of California.

13
14 (17) “Counsel” means an attorney.

15
16 (18) “Sheriff” includes marshal.

17
18 ~~(9)~~(19) “Service:” means service in the manner prescribed by a statute or
19 rule. Whenever under these rules a notice or other paper is required
20 to be served on or given to a party, such service or notice must be
21 made on the party’s attorney of record if there is one.

22
23 ~~(10)~~ The words “Serve and file” mean that a paper filed in a court must be
24 accompanied by proof of prior service, in a manner permitted by law,
25 of a copy of the paper on each party.

26
27 ~~(11)~~ The terms “written,” “writing,” “typewritten,” and “typewriting”
28 include other methods equivalent in legibility to typewriting.

29
30 (20) “Memorandum” means a written document containing: a statement of
31 facts; a concise statement of the law, evidence, and arguments relied
32 on; and a discussion of the statutes, cases, rules, and other legal sources
33 relied on in support of the position advanced.

34
35 (21) “Declaration” includes “affidavit.”

36
37 (22) “Recycled” as applied to paper means “recycled paper product” as
38 defined by section 42202 of the Public Resources Code.

39
40 (23) “California Courts Web Site” means the web site established by the
41 Judicial Council that includes news and information, reference
42 materials, rules and forms, and a self-help center. The address is:
43 www.courtinfo.ca.gov.

1
2 **(Reviser’s note: Rule 1.6 provides definitions and describes the use of terms**
3 **that appear in more than one title and apply generally throughout the rules.**
4 **Specific terms used in particular titles are defined in those separate titles.**
5 **Many of the definitions and terms in rule 1.6 are based on current rules 200.1**
6 **and 880; however, some have been modified and others have been added. The**
7 **definition of “temporary judge” is from the Code of Judicial Ethics. The**
8 **definition of “court” as meaning the trial court from rule 200.1 is not**
9 **included because, although that definition was appropriate when the**
10 **definition was in title 2 (Trial Court Rules), it is no longer appropriate as a**
11 **general definition in title 1, which applies to all courts. The definition of**
12 **“memorandum” is based on rule 313(b). The substantive provisions in the**
13 **definitions of “service” and “serve and file” have been moved to new rule 1.21**
14 **below. Comments are invited on all the definitions and terms in rule 1.6,**
15 **especially the new ones.)**

16 17 **Chapter 2. Timing and Holidays**

18 19 **Rule 1.10.200.3. Time for actions**

20 21 **(a) Computation of time**

22
23 The time in which any act provided by these rules is to be ~~done~~ performed is
24 computed by excluding the first day, and including the last, unless the last
25 day is a Saturday, Sunday, or other legal holiday, and then it is also
26 excluded.

27 28 **(b) Holidays**

29
30 Unless otherwise provided by law, if the last day for the performance of any
31 act that is required by these rules to be performed within a specific period of
32 time falls on a Saturday, Sunday, or other legal holiday, ~~then~~ the period is
33 extended to and includes the next day that is not a holiday.

34 35 **(c) Extending or shortening time**

36
37 Unless otherwise provided by law, the court may extend or shorten the time
38 ~~by~~ within which a party must perform any act under these rules.

39 40 **Rule 1.11.987. Holiday falling on a Saturday or Sunday**

41
42 When a judicial holiday specified by Code of Civil Procedure section 135 falls on
43 a Saturday, the courts must observe the holiday on the preceding Friday. When a

1 judicial holiday specified by Code of Civil Procedure section 135 falls on a
2 Sunday, the courts shall ~~must~~ observe the holiday on the following Monday. When
3 a judicial holiday specified by Code of Civil Procedure section 135 falls on a
4 Saturday, the courts shall observe the holiday on the preceding Friday.
5

6 **Chapter 3. Service and Filing**

7 8 **Rule 1.20 Filing**

9
10 Unless otherwise provided, a document is deemed filed on the date it is received
11 by the court clerk.
12

13 **(Reviser’s note: This rule is based on current rules 40(k) and 40.1(b)(1).)**
14

15 **Rule 1.21. Service**

16 17 **(a) Service on a party or attorney**

18
19 Whenever a notice or other paper is required to be served on or given to a
20 party, the service or notice must be made on the party’s attorney if there is
21 one.
22

23 **(b) Proof of service**

24
25 As used in these rules, “serve and file” means that a document filed in a
26 court must be accompanied by a proof of service, in a manner permitted by
27 law, of one copy of the document on the attorney for each party separately
28 represented and on each self-represented party.
29

30 **(Reviser’s note: This rule is based on rule 40(f), rule 40.1(a), and rule 200.1(9)**
31 **and (10).)**
32

33 **Rule 1.22. Recycled paper**

34 35 **(a) Use of recycled paper required**

36
37 Recycled paper as defined in rule 1.6 must be used for all original papers
38 filed with the trial and appellate courts and for all copies of papers,
39 documents, and exhibits, whether filed with the courts or served on other
40 parties.
41

42 **(b) Certification**

43

1 Whenever the use of recycled paper is required by these rules, the attorney,
2 party, or other person filing or serving a document certifies, by the act of
3 filing or service, that the document was produced on paper purchased as
4 recycled.

5
6 (Reviser’s note: This rule is based on current rules 40(l) and 201(b).)

7
8 **Chapter 4. Judicial Council Forms**

9
10 (Reviser’s note: Rules 1.30–1.37 are based on current rule 201.1.)

11
12 **Rule 1.30,201.1. Judicial Council forms**

13
14 (a) **Application**

15
16 The rules in this chapter apply to Judicial Council forms.

17
18 (b) **Mandatory or optional forms**

19
20 Judicial Council forms are either mandatory or optional.

21
22 (b) **[Mandatory forms]**

23
24 (1) ~~Forms adopted by the Judicial Council for mandatory use are forms~~
25 ~~prescribed under Government Code section 68511. Wherever~~
26 ~~applicable, they must be used by all parties and must be accepted for~~
27 ~~filing by all the courts.~~

28
29 (2) ~~Each mandatory Judicial Council form is identified as mandatory by an~~
30 ~~asterisk (*) on the list of Judicial Council forms in division III of the~~
31 ~~Appendix to the California Rules of Court. The list is available on the~~
32 ~~California Courts Web site at www.courtinfo.ca.gov/forms.~~

33
34 (3) ~~Forms adopted by the Judicial Council for mandatory use bear the~~
35 ~~words “Form Adopted for Mandatory Use” or “Mandatory Form” in~~
36 ~~the lower left corner of the first page.~~

37
38 (4) ~~Publishers and courts reprinting a mandatory Judicial Council form in~~
39 ~~effect before July 1, 1999, must add the words “Mandatory Form” to~~
40 ~~the bottom of the first page.~~

41
42 (5) ~~The court may not alter a mandatory Judicial Council form and require~~
43 ~~the altered form’s use in place of the Judicial Council form.~~

1
2 (6) ~~The court may not require that any mandatory Judicial Council form be~~
3 ~~submitted on any color paper other than white.~~

4
5 **(e) [Optional forms]**

6
7 (1) ~~Forms approved by the Judicial Council for optional use, wherever~~
8 ~~applicable, may be used by parties and must be accepted for filing by~~
9 ~~all the courts.~~

10
11 (2) ~~Each optional Judicial Council form appears, without an asterisk (*), on~~
12 ~~the list of Judicial Council forms in division III of the Appendix to the~~
13 ~~California Rules of Court. The list is available on the California Courts~~
14 ~~Web site at www.courtinfo.ca.gov/forms.~~

15
16 (3) ~~Forms approved by the Judicial Council for optional use bear the words~~
17 ~~“Form Approved for Optional Use” or “Optional Form” in the lower~~
18 ~~left corner of the first page.~~

19
20 (4) ~~Publishers and courts reprinting an optional Judicial Council form in~~
21 ~~effect before July 1, 1999, must add the words “Optional Form” to the~~
22 ~~bottom of the first page.~~

23
24 (5) ~~The court may not alter an optional Judicial Council form and require~~
25 ~~the altered form’s use in place of the Judicial Council form.~~

26
27 (6) ~~The court may not require that any optional Judicial Council form be~~
28 ~~submitted on any color paper other than white.~~

29
30 (7) ~~An otherwise legally sufficient court order for which there is a~~
31 ~~mandatory Judicial Council form is not invalid or unenforceable~~
32 ~~because the order is not prepared on a Judicial Council form or the~~
33 ~~correct Judicial Council form.~~

34
35 **(d) [Statutory references on the forms]**

36
37 ~~The references to statutes and rules in the lower right corner of Judicial~~
38 ~~Council forms are advisory only. The presence or absence of a particular~~
39 ~~reference is not a grounds for rejecting a form otherwise applicable in the~~
40 ~~action or proceeding for the purpose presented.~~

41
42 **(e) [Proofs of service]**

1 Proofs of service are included on some Judicial Council forms solely for the
2 convenience of the parties. A party may use an included proof of service or
3 any other proper proof of service.
4

5 **(f) [~~Matter added by the courts or others~~]**

6
7 A court must not reject for filing a Judicial Council form for any of the
8 following reasons:
9

- 10 (1) ~~The form lacks the preprinted title and address of the court or the~~
11 ~~clerk's preprinted name;.~~
- 12
13 (2) ~~The form is printed by a publisher or another court;.~~
- 14
15 (3) ~~The preprinted title and address of another court or its clerk's name is~~
16 ~~legibly modified;.~~
- 17
18 (4) ~~The form lacks the name of the clerk;.~~
- 19
20 (5) ~~The form lacks the court's local form number;.~~
- 21
22 (6) ~~The form lacks any other material added by a court, unless the material~~
23 ~~is required by the Judicial Council;.~~
- 24
25 (7) ~~The form is imprinted with the name or symbol of the publisher, unless~~
26 ~~the name or symbol replaces or obscures any material on the printed~~
27 ~~form; or.~~
- 28
29 (8) ~~The form is legibly and obviously modified to correct a code section~~
30 ~~number or to comply with the law under which the form is filed.~~

31
32 **(g) [~~Multiple page forms~~]**

33
34 ~~If a Judicial Council form is longer than one page, the form may be filed on~~
35 ~~sheets printed on only one side even if the original form has two printed~~
36 ~~sides to a sheet. If a form is filed on a sheet printed on two sides, the reverse~~
37 ~~side must be rotated 180 degrees (printed head to foot).~~
38

39 **(h) [~~Legibility~~]**

40
41 ~~Any Judicial Council form filed must be a true copy of the original form and~~
42 ~~must be as legible as a printed form.~~
43

1 ~~(i) [Electronically produced forms]~~

2
3 ~~A party or attorney may file a duplicate of a Judicial Council form produced~~
4 ~~by a computer and a printer or similar device with a resolution of at least 300~~
5 ~~dots per inch. The device must print, in a contrasting typestyle equivalent to~~
6 ~~that produced by a typewriter, text that otherwise would have been entered~~
7 ~~by a typewriter or word processor.~~

8
9 ~~(j) [True copy certified]~~

10
11 ~~A party or attorney who files a Judicial Council form certifies by filing the~~
12 ~~form that it is a true and correct copy of the form.~~

13
14 ~~(k) [Use of recycled paper]~~

15
16 ~~All forms and copies of forms filed with the court must use recycled paper as~~
17 ~~defined in rule 201(a)(2).~~

18
19 ~~(l) [Hole punching]~~

20
21 ~~All forms presented for filing must be firmly bound at the top and must~~
22 ~~contain two pre-punched normal-sized holes, centered 2½ inches apart and~~
23 ~~5/8 inch from the top of the form.~~

24
25 **Rule 1.31. Mandatory forms**

26
27 **(a) Use of mandatory forms and acceptance for filing**

28
29 Forms adopted by the Judicial Council for mandatory use are forms
30 prescribed under Government Code section 68511. Wherever applicable,
31 they must be used by all parties and must be accepted for filing by all courts.
32 In some areas, alternative mandatory forms have been adopted.

33
34 **(b) List of mandatory forms**

35
36 Each mandatory Judicial Council form is identified as mandatory by an
37 asterisk (*) on the list of Judicial Council forms in Appendix D to the
38 California Rules of Court. The list is available on the California Courts Web
39 site at www.courtinfo.ca.gov/forms.

40
41 **(c) Identification of mandatory forms**

1 Forms adopted by the Judicial Council for mandatory use bear the words
2 “Form Adopted for Mandatory Use,” “Mandatory Form,” or “Form Adopted
3 for Alternative Mandatory Use” in the lower left corner of the first page.

4
5 **(d) Words on forms**

6
7 Publishers and courts reprinting a mandatory Judicial Council form in effect
8 before July 1, 1999, must add the words “Mandatory Form” to the bottom of
9 the first page.

10
11 **(e) No alteration of forms**

12
13 Courts may not alter a mandatory Judicial Council form and require the
14 altered form’s use in place of the Judicial Council form.

15
16 **(f) No colored forms**

17
18 Courts may not require that any mandatory Judicial Council form be
19 submitted on any color of paper other than white.

20
21 **(g) Orders not on mandatory forms**

22
23 An otherwise legally sufficient court order for which there is a mandatory
24 Judicial Council form is not invalid or unenforceable because the order is not
25 prepared on a Judicial Council form or the correct Judicial Council form.

26
27 **Rule 1.35. Optional forms**

28
29 **(a) Use of optional forms and acceptance for filing**

30
31 Forms approved by the Judicial Council for optional use, wherever
32 applicable, may be used by parties and must be accepted for filing by all
33 courts.

34
35 **(b) List of optional forms**

36
37 Each optional Judicial Council form appears without an asterisk (*) on the
38 list of Judicial Council forms in Appendix D to the California Rules of
39 Court. The list is available on the California Courts Web site at
40 www.courtinfo.ca.gov/forms.

41
42 **(c) Identification of optional forms**

43

1 Forms approved by the Judicial Council for optional use bear the words
2 “Form Approved for Optional Use” or “Optional Form” in the lower left
3 corner of the first page.

4
5 **(d) Words on forms**

6
7 Publishers and courts reprinting an optional Judicial Council form in effect
8 before July 1, 1999, must add the words “Optional Form” to the bottom of
9 the first page.

10
11 **(e) No alteration of forms**

12
13 Courts may not alter an optional Judicial Council form and require the
14 altered form’s use in place of the Judicial Council form.

15
16 **(f) No colored forms**

17
18 Courts may not require that any optional Judicial Council form be submitted
19 on any color of paper other than white.

20
21 **Rule 1.40. Statutory references on forms**

22
23 The references to statutes and rules at the bottom of Judicial Council forms are
24 advisory only. The presence or absence of a particular reference is not a ground
25 for rejecting a form otherwise applicable in the action or proceeding for the
26 purpose presented.

27
28 **(Reviser’s note: In the first sentence, the words “in the lower right corner”**
29 **have been changed to “at the bottom” to reflect that in the new plain**
30 **language forms statutory references are placed in the lower left corner.)**

31
32 **Rule 1.41. Proofs of service on forms**

33
34 Proofs of service are included on some Judicial Council forms solely for the
35 convenience of the parties. A party may use an included proof of service or any
36 other proper proof of service.

37
38 **Rule 1.42. Forms not to be rejected**

39
40 A court must not reject for filing a Judicial Council form for any of the following
41 reasons:

42
43 (1) The form lacks the preprinted title and address of the court;

- 1
2 (2) The form lacks the name of the clerk;
3
4 (3) The preprinted title and address of another court or its clerk’s name is legibly
5 modified;
6
7 (4) The form lacks the court’s local form number;
8
9 (5) The form lacks any other material added by a court, unless the material is
10 required by the Judicial Council;
11
12 (6) The form is printed by a publisher or another court;
13
14 (7) The form is imprinted with the name or symbol of the publisher, unless the
15 name or symbol replaces or obscures any material on the printed form; or
16
17 (8) The form is legibly and obviously modified to correct a code section number
18 or to comply with the law under which the form is filed.
19

20 **Rule 1.43. Legibility**

21
22 A Judicial Council form filed must be a true copy of the original form and must be
23 as legible as a printed form.
24

25 **Rule 1.44. Electronically produced forms**

26
27 A party or attorney may file a duplicate of a Judicial Council form produced by a
28 computer and a printer or similar device with a resolution of at least 300 dots per
29 inch.
30

31 **(Reviser’s note: The last sentence in current rule 201.1(i) has been deleted as**
32 **unnecessary.)**
33

34 **Rule 1.45.201.2. Judicial Council pleading forms**

35
36 **(a) Pleading forms**
37

38 The forms listed under the “Pleading” heading on the list of Judicial Council
39 forms in ~~division III~~ of the Appendix D to the California Rules of Court
40 (forms 982.1(1)–982.1(95)) are approved by the Judicial Council ~~as required~~
41 ~~by Code of Civil Procedure section 425.12.~~
42

1 (b) **Cause of action forms**

2
3 Any approved cause of action form may be attached to any approved form of
4 complaint or cross-complaint.

5
6 (c) **Other causes of action**

7
8 A cause of action for which no form has been approved may be prepared in
9 the format prescribed by ~~rule 201~~ the rules in chapter 1 of division 2 of title 2
10 and attached to any approved form of complaint or cross-complaint. Each
11 paragraph within a cause of action must be numbered consecutively
12 beginning with one. Each paragraph number must be preceded with one or
13 more identifying letters derived from the title of the cause of action.

14
15 **Chapter 5. Accommodations**

16
17 **Rule 1.100.989.3. Requests for accommodations by persons with disabilities**

18
19 (a) **Policy**

20
21 ~~It is the policy of the courts of this state to ensure that persons with~~
22 ~~disabilities have equal and full access to the judicial system. To ensure~~
23 ~~access to the courts for persons with disabilities, each superior and appellate~~
24 ~~court must delegate at least one person to be the ADA coordinator, also~~
25 ~~known as the access coordinator, or designee to address requests for~~
26 ~~accommodations. This rule is not intended to impose limitations or to~~
27 ~~invalidate the remedies, rights, and procedures accorded to persons with~~
28 ~~disabilities under state or federal law.~~

29
30 **(Reviser’s note: This policy statement has been moved to subdivision (b).)**

31
32 ~~(b)~~ (a) **Definitions**

33
34 ~~The following definitions shall apply~~ As used under in this rule:

- 35
36 (1) “Persons with disabilities” means individuals covered by California
37 Civil Code section 51, et seq.; the Americans With Disabilities Act of
38 1990 (42 U.S.C. §12101 et seq.); or other applicable state and federal
39 laws. This definition includes persons who have a physical or mental
40 impairment that limits one or more of the major life activities, have a
41 record of such an impairment, or are regarded as having such an
42 impairment.

1 (2) “Applicant” means any lawyer, party, witness, juror, or other person
2 with an interest in attending any proceeding before any court of this
3 state.

4
5 (3) “Accommodations” means actions that result in court services,
6 programs, or activities being readily accessible to and usable by
7 persons with disabilities. Accommodations may include, ~~but are not~~
8 ~~limited to~~, making reasonable modifications in policies, practices, and
9 procedures; furnishing, at no charge, to persons with disabilities,
10 auxiliary aids and services, equipment, devices, materials in alternative
11 formats, readers, or certified interpreters for persons with hearing
12 impairments; relocating services or programs to accessible facilities; or
13 providing services at alternative sites. Although not required where
14 other actions are effective in providing access to court services,
15 programs, or activities, alteration of existing facilities by the
16 responsible entity may be an accommodation.

17
18 ~~(4) “Rule” means this rule regarding requests for accommodations in state~~
19 ~~courts by persons with disabilities.~~
20

21 **(b) Policy**

22
23 It is the policy of the courts of this state to ensure that persons with
24 disabilities have equal and full access to the judicial system. To ensure
25 access to the courts for persons with disabilities, each superior and appellate
26 court must delegate at least one person to be the ADA coordinator, also
27 known as the access coordinator, or designee to address requests for
28 accommodations. This rule is not intended to impose limitations or to
29 invalidate the remedies, rights, and procedures accorded to persons with
30 disabilities under state or federal law.

31
32 **(c) Process for requesting accommodations**

33
34 The ~~following~~ process for requesting accommodations is ~~established as~~
35 follows:

36
37 (1) Requests for accommodations under this rule may be presented ex parte
38 on a form approved by the Judicial Council, in another written format,
39 or orally. Requests must be forwarded to the ADA coordinator, also
40 known as the access coordinator, or designee, within the time frame
41 provided in ~~subdivision~~ (c)(3).
42

1 (2) Requests for accommodations must include a description of the
2 accommodation sought, along with a statement of the impairment that
3 necessitates ~~such~~ the accommodation. The court, in its discretion, may
4 require the applicant to provide additional information about the
5 impairment.

6
7 (3) Requests for accommodations must be made as far in advance as
8 possible, and in any event must be made no fewer than five court days
9 before the requested implementation date. The court may, in its
10 discretion, waive this requirement.

11
12 (4) The court must keep confidential all information of the applicant
13 concerning the request for accommodation, unless confidentiality is
14 waived in writing by the applicant or disclosure is required by law.
15 The applicant's identity and confidential information may not be
16 disclosed to the public or to persons other than those involved in the
17 accommodation process. Confidential information includes all medical
18 information pertaining to the applicant, and all oral or written
19 communication from the applicant concerning the request for
20 accommodation.

21
22 **(d) Permitted communication**

23
24 Communications under this rule must address only the accommodation
25 requested by the applicant and must not address, in any manner, the subject
26 matter or merits of the proceedings before the court.

27
28 **(e) Response to accommodation**

29
30 ~~A~~ The court must respond to a request for an accommodation as follows:

31
32 (1) The court must consider, but is not limited by, California Civil Code
33 section 51 et seq., the provisions of the Americans With Disabilities
34 Act of 1990, and other applicable state and federal laws in determining
35 whether they provide an accommodation or an appropriate alternative
36 accommodation.

37
38 (2) The court must inform the applicant in writing, as may be appropriate,
39 and if applicable, in an alternative format, of the following:

40
41 ~~(a)~~(A) That the request for accommodation is granted or denied, in
42 whole or in part, and if the request for accommodation is

1 denied, the reason therefor; or that an alternative
2 accommodation is granted;

3
4 ~~(b)~~(B) The nature of the accommodation to be provided, if any; and

5
6 ~~(e)~~(C) The duration of the accommodation to be provided.

7
8 **(f) Denial of accommodation request**

9
10 A request for accommodation may be denied only when the court determines
11 that:

- 12
13 (1) The applicant has failed to satisfy the requirements of this rule; or
14
15 (2) The requested accommodation would create an undue financial or
16 administrative burden on the court; or
17
18 (3) The requested accommodation would fundamentally alter the nature of
19 the service, program, or activity.
20

21 **(g) Review procedure**

- 22
23 (1) An applicant or any participant in the proceeding in which an
24 accommodation request has been denied or granted may seek review of
25 a determination made by nonjudicial court personnel within 10 days of
26 the date of the response by submitting, in writing, a request for review
27 to the presiding judge or designated judicial officer.
28
29 (2) An applicant or any participant in the proceeding in which an
30 accommodation request has been denied or granted may seek review of
31 a determination made by a presiding judge or another judicial officer
32 within 10 days of the date of the notice of determination by filing a
33 petition for extraordinary relief in a court of superior jurisdiction.
34

35 **(h) Duration of accommodations**

36
37 The accommodation by the court must be provided for the duration indicated
38 in the notice of accommodation and must remain in effect for the period
39 specified. The court may provide an accommodation for an indefinite period
40 of time, for a limited period of time, or for a particular matter or appearance.